



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,199	11/25/2003	Dwayne Nelson	29757/P-262A	6785
4743	7590	02/18/2005		EXAMINER
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606				HOTALING, JOHN M
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/722,199	NELSON, DWAYNE
	Examiner John M Hotaling II	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 November 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 78-132 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 78-132 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 91-113 are rejected under 35 U.S.C. 102(e) as being anticipated by Acres US Patent 6,254,483. . Acres teaches a gaming system that has a display, an input device, a currency accepting mechanism and a controller (Fig. 2) to generate various video games (1:1-3:20). Column 2:18-28 disclose that reconfiguring the primary game and the secondary game is analogous since they are configured in the same manner. With respect to the minimum bet and the denomination for the deposit of currency please see 2:35-55 which discloses being able to vary the wager per unit time and that it is desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods. Column 3:24-26 discloses that the method of configuring electronic gaming machines interconnected by a computer network to a host computer and that selected configuration parameters are implemented at each machine. The game machines can be used in a standalone configuration or network configuration and that such configuration parameters control the behavior of the electronic gaming machine (5:47-

6:12). Column 6:55-62 teaches of an internal or external clock/time generator and reconfigures various game parameters based upon a time signal. Various game parameters examples that are changed are rate of game play (6:44), wagering level (6:45), sound level (3:17-20), appearance (3:17-20), a bonus game (8:20-48), payback percentage (8:4). Acres also clearly states the scope of the invention is to change game machine aspects/behaviors with respect to time (3:18) in addition to other such variables. Acres also teaches in the abstract that machine behaviors such as game speed, payback percentage, game appearance are changed in response to a signal from one of a number of variables, such as time (Abstract). Acres furthermore offers more support for the behaviors such as payback percentage modified based upon time (8:49-65). In regard to memory mediums used, Acres teaches using optical (4:3), and various semiconductor memories such as PROMs (5:21) and RAM (5:25) to store various instructions to implement and execute the above-taught game system. Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 78-90 and 124-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US Patent 6,254,483 in view of Miura US Patent 6,354,943. Acres discloses all of the instant application as taught above but lacks in specifically teaching that the controller replace at least one of the available gambling games in response to the time signal and specifically stating replacing a first bonus game for a second bonus game. Instead Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. The above is motivation to one skilled in the art to seek a reference that changes the games with an available game in response to time. In an analogous game machine to Miura therein is disclosed changing available games with respect to a time signal. It would be obvious to one of ordinary skill in the art to change

the games in Acres with available games (main/bonus) with respect to a time signal as taught in Miura using the above motivation that the game may be changed.

Claims 114-123 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US Patent 6,254,483 in view of Weiss US Patent 5,611,730. Acres discloses all of the instant application as taught above but lacks in specifically disclosing "change a maintenance schedule of the gaming unit in response to a time signal. Instead, Acres discloses at the bottom of column 8 that it is to be appreciated that multiple variables may be monitored and multiple configuration parameters may be changed in response to the monitored variables. Maintenance of game machines is inherent to the use of game machines. In an analogous invention to Weiss column 14 and figure 5 discloses a maintenance system which generates maintenance request signals in real time for jackpot and fill notifications provided thru the computer network to a pager of a maintenance person. This is a maintenance request in response to a time signal. In this case the time signal is the real time message forwarded to the computer system. It is also notoriously well known that these types of systems need to have regularly scheduled maintenance performed. It is obvious to one of ordinary skill in the art that the system of Acres could use the maintenance system of Weiss in that computer monitoring of the system of Acres would provide the maintenance people the proper signals for Jackpot and fill notifications as is well known in the art.

Response to Arguments

Applicant's arguments with respect to claims 78-132 have been considered but are moot in view of the new ground(s) of rejection.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. GB '975, '279 and '054 are related to games of chance that are changed in accordance with a time signal.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is (571) 272 4437. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272 3507. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JOHN M. HOTALING, II
PRIMARY EXAMINER**

February 16, 2005